

VZCZCXRO7441
RR RUEHAG RUEHDF RUEHIK RUEHLZ RUEHROV RUEHSR
DE RUEHMD #1318/01 3511309
ZNR UUUUU ZZH
R 161309Z DEC 08
FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC 5780
INFO RUCNMEM/EU MEMBER STATES COLLECTIVE
RUEHLA/AMCONSUL BARCELONA 3714
RUCPDOG/DEPT OF COMMERCE WASHDC

UNCLAS SECTION 01 OF 03 MADRID 001318

SIPDIS

STATE FOR EUR/WE, EEB/TPP/IPE, EEB/CIP
STATE PASS USTR DWEINER
USDOC FOR 4212 D.CALVERT
USDOC ALSO FOR PTO

E.O. 12958: N/A
TAGS: [ETRD](#) [KCRM](#) [KIPR](#) [SP](#)
SUBJECT: SPAIN: GOVERNMENT HOSTS IPR CONFERENCE, LAUNCHES
ANTI-PIRACY PUBLIC AWARENESS CAMPAIGN

REF: A. MADRID 1194
[1](#)B. MADRID 1150

MADRID 00001318 001.2 OF 003

SUMMARY

[1](#)1. In late November, the GOS hosted its second annual International Conference on Digital Content (FICOD), which included as a separate event an International Conference on Intellectual Property in the Digital Environment. The IPR Conference brought Spanish government officials together with counterparts from other EU countries and the U.S., the EC, OECD, WIPO, and other international bodies, along with a broad range of private sector representatives from the community of copyright holders and the telecommunications and internet service provider (ISP) industries. The IPR conference also featured a presentation by businessman/lobbyist Aldo Olcese, newly appointed president of the Anti-Piracy Coalition. Concurrent with the two conferences, the Ministry of Culture launched a new anti-piracy public awareness and education campaign targeting young people with a variety of messages to discourage illegal downloads of copyrighted material and other forms of digital infringement. These relatively high-profile events represent a sign that the GOS is keenly aware of the serious problem posed by increasing online piracy in Spain. The government continues to urge ISPs and rights-holders to negotiate an agreement on measures to combat piracy, but continues to defer action until the private stakeholders agree on what measures they want the government to take. End Summary.

FICOD AND IPR CONFERENCE: TECHNOLOGY AND COPYRIGHT

[1](#)2. Sponsored by the Ministry of Industry, Tourism and Trade (MITyC) and the Spanish public entity red.es, which implements programs for the development of the information society, the International Conference on Digital Content (FICOD) also received significant support from telecommunications giant Telefonica and mega-bank BBVA, as well as the Ministry of Culture, the City of Madrid, and the Foreign Trade Institute. Secretary of State for Telecommunications Francisco Ros Peran, Colombian Communications Minister Maria del Rosario Guerra, and the Crown Prince delivered opening remarks. Secretary Ros hailed the growing penetration of the internet in Spanish society, which he said now boasts 24 million "internauts;" he noted that 83 percent of Spanish youth belong

to online social networks. According to Ros, 95 percent of Spanish companies and 50 percent of households are connected to the internet and Spanish digital content is valued at 16 billion euros. Spanish is the second language in use on the internet, after English, and has the third highest number of native speaker users, after English and Japanese. Ros highlighted the importance of protecting intellectual property online, noting that FICOD organizers had opted to give the issue "its own space" by addressing IPR issues in a separate conference. Many of the high-profile FICOD speakers also emphasized in their separate presentations the importance of protecting intellectual property rights. In presenting FICOD's annual awards, Minister of Industry, Tourism, and Trade Miguel Sebastian stated that the digital content sector cannot advance without IPR protection, and that freedom on the internet is entirely compatible with such protection.

¶3. The IPR Conference consisted of several speeches and a series of roundtables under such rubrics as "Policies and Legislative Measures to Protect Intellectual Property in the Digital Environment;" "The Fight Against IPR-Infringing Activities on the Internet;" "The Value of Intellectual Property and Means of Heightening Social Awareness;" "The Viewpoint of IPR Rights-holders;" and "New Content Distribution Platforms, Their Impact on IPR, and Consumers' Vision." The first panel featured a presentation by Dr. Michael Shapiro, attorney-advisor at the U.S. Patent and Trademark Office, who described the U.S. experience in dealing with repeat offenders, referring to provisions of the Digital Millennium Copyright Act and several illustrative court cases highlighting ISPs' obligations under "safe harbor"

MADRID 00001318 002.2 OF 003

provisions. Another presenter, David Baervoets of the EC's Directorate General for the Internal Market and Services, outlined the green paper on copyright in a knowledge society, which highlighted the need to strike a balance among the various stakeholders - users, service providers, and rights-holders - and competing rights and responsibilities (freedom of expression, privacy and data protection, and IPR protection). This same panel also included a presentation by French Ministry of Culture official Olivier Henard on legislation currently under consideration in France. The GOS and private stakeholders continue to express considerable interest in the French and British experiences in combating internet piracy, hoping to learn lessons that can be applied to their own situation.

ISP AND RIGHTS-HOLDERS' VIEWS ELABORATED

¶4. In the roundtable on combating IPR-infringing activity on the internet, Jose Manuel Tourne of the Federation for the Protection of Intellectual Property in Audio-Visual Works (FAP) provided statistics indicating that the number of illegal peer-to-peer video downloads had almost trebled in the past three years and that pirated works (including both street and digital piracy) now constituted 75 percent of the Spanish market. For her part, Maria Teresa Arcos, Director General of the Internet Service Providers' association, Redtel, argued that the ISPs are more intensely aware than anyone else of the need for strong IPR protection because their industry depends so heavily on creativity and innovation. She noted, however, that not all P2P downloads are illegal, as many rights-holders claim, and stressed the importance of making more content legally available on the internet as a disincentive

to piracy. Arcos warned that there is no panacea or magic bullet to make piracy go away. Tourne and Arcos are key players in the negotiations between ISPs and the Anti-Piracy Coalition; at a November 24 lunch hosted by DCM in honor of the PTO's Michael Shapiro, both agreed that negotiations are going well; the two sides now know each other much better than before and have a deeper understanding of each other's issues and concerns. However, Arcos downplayed the likelihood of reaching an agreement any time soon, noting that "you can't put a clock" on the negotiations.

15. In the same roundtable, Kiaron Whitehead of the British Phonographic Industry (BPI) and Adrian Brazier of the UK Department for Business, Enterprise, and Regulatory Reform (BERR) offered perspectives on the situation in the UK, where in late July the government, major rights-holders, and the six leading ISPs signed an MOU providing for public education, attractive legal content availability, and dissuasive measures. Brazier noted that negotiations were painful and involved "unprecedented Ministerial input," and that the resulting MOU is being "co-regulated" by the private stakeholders and the government.

NEW PRESIDENT OF ANTI-PIRACY COALITION

16. The November 26 panel on the viewpoint of rights-holders featured the first public appearance of Aldo Olcese since being named President of the Anti-Piracy Coalition earlier the same week. Olcese is a member of the Royal Academy of Economic and Financial Sciences who serves on the Board of Directors of several major European companies and is widely recognized as a leading expert on corporate governance and corporate social responsibility. The Coalition brought him on board to give its members a more authoritative voice in negotiating with the major telecommunications companies and the government. Olcese noted that one important consequence of unrestrained internet piracy is that the audio-visual sector, as a percentage of GDP, has less weight in Spain than in other EU member countries, and that Spain is not ranked as highly

MADRID 00001318 003.2 OF 003

as an information society as its economic strength would suggest it should be. Spaniards, he noted, pay higher rates for digital consumption than their European counterparts, and even so, content is not being paid for as a result of piracy. Olcese stated that Redtel and the Coalition should not be adversaries, but were in fact complementary industries that should be working together in their common interest. He added that he hopes soon to be able to present to the Minister of Industry, Tourism, and Trade the elements of an agreement between Redtel and the Coalition. Auto-regulation by industry, he said, presents a serious challenge, and the ISPs and rights-holders need to learn to govern themselves with some "minimal legislative support" provided by the government.

MINISTRY OF CULTURE PUBLIC AWARENESS CAMPAIGN

17. On November 25, while the IPR conference was proceeding, Minister of Culture Cesar Antonio Molina formally launched Spain's third Anti-Piracy Public Awareness Campaign. Noting Spain's place in the international community as a "cultural power" with "one of the world's most important cultural patrimonies," the Minister expressed concern that Spanish cultural production would decline without strong IPR protection. He noted that cultural industries comprise five percent of Spain's GDP, directly employ almost a million people,

and generate prosperity. The anti-piracy campaign, with an estimated budget of 1.95 million euros, will disseminate public-services messages, aimed largely at young people, on radio, television, the internet, and other media, with the slogan "si eres legal, eres legal" (roughly, "if you're legal, you're all right"). The campaign has come under some criticism for being overly simplistic and lacking subtlety, and as unlikely to be heeded by its target audience. At the same time, Luis Frutos of the Spanish committee of the Business Software Alliance was appreciative that the campaign included references to business software alongside such cultural materials as films, music recordings, and video games. Another prominent rights-holder, Antonio Guisasola of the Music Producers of Spain (PROMUSICAE), opined that the slogan was a bit hackneyed but commented that "every little bit helps."

COMMENT

18. Ministry of Industry, Tourism, and Trade officials estimated that 800 people had registered for the IPR conference; however, while the convention hall was often full of people, most participated in the digital content conference, while the IPR conference was more sparsely attended. That said, the quality of the speakers and panelists was very high, and the presentations without exception timely and relevant. The phenomenon of internet piracy in Europe and the U.S. was broadly explored, as were such possible solutions as graduated response mechanisms. The GOS continues to push ISPs and rights-holders to reach agreement, and views the UK and French experiences as possibly useful models. The Ministry of Culture in particular recognizes the seriousness of Spain's problem and is a committed ally in pushing for stronger IPR protection, but lacks the clout and enforcement authority to exercise its will. For its part, the telecoms part of the Ministry of Industry, Tourism, and Trade, which has the lead on the issue, remains reluctant to push the telecommunications companies too hard and is also concerned about a possible backlash from internet users' associations if restrictions or sanctions are introduced; this appears to be behind its insistence that the ISPs and content providers reach agreement on what GOS measures are needed. While Spain is moving in the direction of developing a comprehensive, industry-supported approach to combating internet piracy, it is likely to take more time. End Comment.

AGUIRRE